

IX. Eligible Activities

Activities must meet at least one CDBG program eligible activity listed below or approved in a subsequent waiver from HUD. For a detailed overview of all CDBG eligible activities, please refer to 24 CFR part 570.200, and/or part 570.480. For NDR HCD is allowed to act as an entitlement community to implement programs and use entitlement community regulations. The following list includes the CDBG eligible activities that correspond to planned NDR projects and programs, outlining how each activity, and its related eligible costs, meet the regulations. Each pillar within NDR will involve project efforts eligible under one or more of this list during the development, implementation and construction phases,

Project	Current Eligible Activities
BUF	Economic Development, Acquisition, Clearance
CRC	Acquisition, Relocation, Workforce Development, Public Facilities and Improvement
FWHP	Public Facilities and Improvement, Workforce Development

Each activity described below will have related costs. This list may be expanded if amendments are made that change or adjust project activities.

A. Acquisition

CDBG NDR funds may be used by HCD and its subgrantees and partners to acquire real property in whole or in part by purchase, long term lease, donation, or otherwise. In order to be considered acquisition, a permanent interest in the property must be obtained. Long term leases are considered to constitute a permanent interest for this purpose, if the lease is for a period of 15 years or more.

CDBG NDR funds may be used under this category by HCD, its subgrantees, a public agency, a public nonprofit entity, or a private nonprofit entity to acquire real property for any public purpose. This authority is subject to the limitations of 24 CFR §570.207(a)(1), which would preclude the acquisition cost attributable to a building to be used for the general conduct of government and 24 CFR part 570.207(a)(3) and the acquisition of property to be used for political activities.

B. Relocation

Relocation payments and assistance for displaced individuals, families, businesses, nonprofit organizations, and farm operations, where the assistance is (1) required under the provisions of §570.606 (b) or (c); or (2) determined by HCD and its subgrantees to be appropriate under the provisions of §570.606(d).

CDBG NDR funds may be used for optional relocation payments and assistance to persons (individuals, families, business, nonprofit organizations, and farms) displaced by an activity that is not subject to the requirements described above. This may include payments and other assistance for temporary relocation (when persons are not permanently displaced).

Optional relocation payments and assistance may also include payments and assistance at levels higher than required. Unless optional payments and assistance are made pursuant to state or local law, the subgrantee may make such payments and assistance only upon the basis of a written determination that such payments and assistance are appropriate, and only if the subgrantee adopts a written policy available to the public, setting forth the relocation payments and assistance it elects to provide. The written policy must also provide for equal payments and assistance within each class of displaced persons. For more information, see 24 CFR §570.201(i).

C. Public Facilities and Improvements

The acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in §570.207(a).

Neither the HCDA nor the Code of Federal Regulations define the terms “public facilities” or “public improvements.” However, in the CDBG program, these terms are broadly interpreted to include all improvements and facilities that are either publicly owned or that are traditionally provided by the government, or owned by a nonprofit, and operated so as to be open to the general public.

Public facilities include firehouses, civil defense shelters, public schools, libraries, and housing shelters. Public improvements include streets, sidewalks, curbs and gutters, parks, playgrounds, water and sewer lines, flood and drainage improvements, parking lots, utility lines, and aesthetic amenities on public property, such as trees, sculptures, pools of water and fountains, and other works of art.

Activities may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in §570.207(a)(1). In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG NDR assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. CDBG NDR funded projects must ensure a review of all architectural and engineering design is complete before a project begins.

Facilities designed for use in providing shelter for persons having special needs are considered public facilities. Such facilities include shelters for the homeless, convalescent homes, hospitals, nursing homes, battered spouse shelters, halfway houses for runaway children, drug offenders or parolees, group homes for handicapped individuals and temporary housing for disaster victims.

In certain cases, nonprofit entities and subgrantees, including those specified in 24 CFR §570.204, may acquire title to public facilities. When such facilities are owned by nonprofit entities or subgrantees, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance are subject to the policies in §570.200(b). For more information, see 24 CFR §570.201(c).

D. Clearance

Clearance refers to the demolition, and removal of buildings and improvements, including movement of structures to other sites and remediation of known or suspected environmental contamination. Demolition of HUD assisted, or HUD owned housing units may be undertaken only with the prior approval of HUD. Remediation may include project specific environmental assessment costs not otherwise eligible under 24 CFR part 570.205. For more information, see 24 CFR §570.201(d).

E. Planning and Capacity Building

This category authorizes the use of CDBG NDR funds to conduct studies, analyses, data gathering, the preparation of plans, and the identification of actions that will implement plans. Funds can be used under this category for activities designed to improve HCD's capacity to plan and manage programs and activities for HCD's CDBG NDR program. See 24 CFR part 570.208.

Planning and capacity building activities do not include:

- Engineering, architectural, and design costs related to a specific project
- Other costs of implementing plans

The amount of funds that can be used under this category is subject to the statutory limitation on planning and administrative costs of 20 percent of the CDBG NDR program.

Refer also to Section III, part B, 3 above on documentation waivers for planning or the national objective guidance on planning below in Section X, part A, 2.

F. Economic Development

Economic development activities for low to moderate persons under 24 CFR §570.203 are primarily focused on job creation or retention efforts, where the jobs created are permanent and the business benefiting from CDBG funds employs 51 percent LMI persons.

Under economic development, jobs can be created or retained. In order to be eligible for the activity, positions made available to LMI persons must meet certain criteria and thresholds set in the SA or by the subgrantee. These include:

- The jobs do not require specialized skills that take more than one year of training or work experience, or education beyond high school, unless the business agrees to hire and train unqualified persons.
- The business must set out hiring practices that ensure LMI persons receive first consideration, such as at least 51 percent of LMI persons interviewed would be hired.
 - In considering offering a position, the distance from a LMI person's residence and the job site must be a reasonable commute.
- The number of jobs must be set based on full time equivalency (FTE) counts.

- Eligible LMI jobs do not have to be funded by CDBG. However, jobs indirectly created from CDBG assistance are not included.

Income for employees at the time of CDBG assistance must be collected to determine the LMI benefit. This would be prior income for a job created, and current income for a job retained. A person can also qualify as presumed LMI if living in a census tract or block area that has at least 70 percent LMI residents, or both the business and the job are located in a census tract or block area that meets the federal Enterprise Community or Empowerment Zone criteria, which can be found under 24 CFR §570.208(a)(4)(iv) and (v).

G. General Administration Costs

General administration costs include staff and related costs required for overall program management, coordination, monitoring, reporting, and evaluation of the CDBG NDR grant.

Activities eligible under this category include citizen participation costs, fair housing activities, and staff costs for project delivery. See 24 CFR §570.206(a)(1).

The amount of funds that can be used under this category is subject to the statutory limitation on planning and administrative costs of 20 percent of the CDBG program.

H. Ineligible Activities

The general rule is that any activity that is not authorized under the provisions of 24 CFR §570.201-570.206 as eligible should be considered ineligible. The activities stated below have been determined to be ineligible.

If any CDBG NDR payments have been made for ineligible costs or activities, the total amount of CDBG NDR funds must be repaid in full. This repayment would include all project activity funding as it is defined in the Agreement and DRGR, which consists of activity delivery, planning and/or general administration funds). HCD will return the funds to the SA balance for use for eligible activities if the SA is still in effect. If the SA has expired, HCD will contact HUD to determine the appropriate action.

1. Categorically Ineligible

The following activities may not be assisted with CDBG NDR funds under any circumstances:

- **Buildings or portions thereof used for the general conduct of government as defined under 24 CFR §570.3(d).** This does not include, however, the removal of architectural barriers involving any such building, which may be assisted under the category of Public Facilities and Improvements. Also, where acquisition of real property includes a building or other improvement that to be used for the general conduct of government, the portion of the acquisition cost attributable to the land may be assisted under the category of Acquisition of Real Property.
- **General government expenses.** Except as otherwise specifically

authorized under OMB requirements at 24 CFR §200, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

- **Political activities.** CDBG NDR funds may not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG NDR funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

2. Generally Ineligible

The following activities may not be assisted with CDBG NDR funds, unless authorized under provisions of 24 CFR 570.203, an activity providing economic development assistance to a for profit business, or when carried out by an entity under the provisions of 24 CFR 570.201(c), by an eligible nonprofit organization.

- **Purchase of equipment.** The purchase of equipment with CDBG NDR funds is generally ineligible, however exceptions for the following can be found in 24 CFR §570.207(i):
 - Construction equipment
 - Fire protection equipment
 - Furnishings and personal property
- **Operating and maintenance expenses.** Generally, any expense associated with repairing, operating, or maintaining public facilities, improvements, and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG NDR program.
- **Income payments.** The general rule is that CDBG NDR funds may not be used for income payments. For purposes of the CDBG NDR program, “income payments” is defined as a series of subsistence type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments.

3. Other Limitations of the Eligibility of Activities

Certain activities, even if they would otherwise be eligible under the category of Special Economic Development Activities, cannot be assisted with CDBG NDR funds if they are specifically ineligible under the provisions of the Public Benefit standards. For example, assisting a business to create jobs that would cost more than \$50,000 in CDBG NDR funds per job would be unallowable. Also, providing assistance to a professional sports team is not allowed.